

**IV. REMARKS****Status of the Claims**

Claims 1-7 and 12-29 are amended. Claim 3 is cancelled. Claims 1, 2, and 4-29 are presented for further consideration.

**Summary of the Office Action**

Claims 1-10, 12-20 and 23-29 stand rejected under 35USC102(e) on the basis of the cited reference Lebens, et al, U.S. Patent No. 6,095,661. Claim 11 stands rejected under 35USC103(a) based on the cited reference Lebens. Claims 21 and 22 stand rejected under 35USC103(a) based on the reference Lebens in view of the teaching of Dunsmore, U.S. Patent No. 5,541,704. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

Applicant has amended the title to be more descriptive, deleted the reference numerals of figure 1 which are not recited in the specification, and deleted "figure 2" from the Abstract in order to overcome the respective objections.

In addition Applicant has amended the claims to expressly indicate that the LEDs of Applicants light intensity measurement are used as sensors and respond to predetermined frequency bands of light received by the LED. This function of the LEDs of applicants device is provided by reverse biasing the LEDs used for this purpose. The LEDs respond to light received by generating a signal indicative of the intensity of a particular frequency band. The claims of this application are amended to support the argued points of

differentiation with the system of Lebens. The system of Lebens, in all of its embodiments, relies on sensors that are separate and distinct from the LEDs, which in Lebens, are used as a source of illumination. Nothing in Lebens indicates that the LEDs can be used to measure light intensity.

Applicant has amended the claims to clarify the novel features of the invention for which protection is sought in this application. Such amendments are in direct response to Examiner's comments in the RESPONSE TO ARGUMENTS in the subject office action and, as such, are believed to render the claims allowable. These amendments are submitted after final rejection in order to place the claims in condition for allowance or in the alternative to place the claims in better condition for appeal. The Examiner is requested to exercise his discretion and enter these amendments.

#### **Responsive Remarks**

The Examiner's responsive comments to Applicant's arguments are based on the premise that the LEDs in Lebens have a response to a predetermined frequency band. This is simply erroneous. The LEDs do nothing in response to incident light. They generate light having a predetermined frequency band as adjusted by a control circuit. This is not the same response as required by the claims of this application. The claim amendments make this significant difference abundantly clear. Applicant submits that this issue is now moot in view of the amendments to the claims.

The Examiner has cited excerpts of the teaching of Lebens in columns 5, 9, 11-12, and 15 to support his position. A careful review of the cited excerpts reveals that the LEDs of

Lebens provide illumination not measurement. In particular the feedback circuit 160 is indicated to provide control of the light emanating from the LEDs. In column 9, lines 61-65 Lebens states as follows:

"In another such embodiment, feedback circuit 160 measures the color balance of the video output signal, and provides separate feedback intensity control for each of a plurality of....color LEDs....."

A further review of the figures, in particular, figure 2 indicates that the feedback circuit 160 is separate and distinct from LED array 150. There is no indication that the array 150 performs any measurement function.

#### **The Issue of Anticipation**

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of Lebens would infringe the claims of this application if it were later.

All of the claims of this application are directed to a method or device having the following features or equivalent steps:

"said LED being reversed biased and adapted to respond to one of said predetermined frequency bands of one of said light components received by said LED, said LED being further arranged to generate an electronic measurement signal representative of the intensity of said one of said light components."

Since this feature is not present in the system of the reference Lebens, there can be no infringement of the subject claims. Therefore the teaching of Lebens does not support the rejection based on anticipation with respect to any of the

claims.

#### **The Issue of Obviousness**

It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.

Applicant submits that the above described deficiencies of the primary reference Lebens are not remedied by the proposed combination with the teaching of the reference Dunsmore. The combined references do not therefore support a prima-facie case of obviousness with respect to claim 11 or claims 21 and 22. The modification of the teachings of Lebens or Lebens and Dunsmore, in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler Jr.  
Reg. No. 44,004

2 Aug 2005  
Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to (571) 273-8300 the date indicated below, addressed to the Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: 2 August 2005

Signature: 

Printed Name: Lisa Shimizu